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Christina M. Halliday
900 Spring City Road
Phoenixville, PA 19460

EXAMINER

BATES, KEVIN T

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER I. HALLIDAY

Appeal 2009-001932
Application 09/922,487
Technology Center 2400

Before JOHN A. JEFFERY, KENNETH W. HAIRSTON and CARL W.
WHITEHEAD, JR. *Administrative Patent Judges.*

WHITEHEAD, JR., *Administrative Patent Judge.*

DECISION ON APPEAL

ON REQUEST FOR REHEARING DECISION

Appellant has requested a rehearing of our decision dated December 14, 2009, wherein we affirmed the obviousness rejections of claims 41-43, 45-53, 55-64 and 74-81.

Appellant asserts that the Board misapprehended the Appellant's argument that Robbins teaches away from the use of multiple receivers (Request 2). However, we do not find Appellant's arguments to be

persuasive because other than his own arguments, Appellant has failed to indicate wherein Robbins *always contemplates* the presence of a least two receivers. *Id.*

Appellant further argues that the Board applied the holding of *In re Larson*, 340 F.2d 965, 968 (CCPA 1965) without regards to the actual claim limitations and therefore improperly compared the system of a plurality of receivers of the cited art with the single receiver of the claimed invention (Request 4). We do not find this argument to be persuasive because the Appellant's assertion that in order for the Board's analysis to be correct the claimed single receiver must mean "a main and an auxiliary receiver in a system" and as we stated above, Appellant has failed to disclose wherein the interpretation of the Robbins reference must be limited in such a manner. *See Id.*

Appellant also argues that the Board has conceded that the Robbins reference employs multiple receivers while the claim limitations are directed to a single receiver and therefore the Board's admission should alone be sufficient to show error in the Board's analysis. *Id.* Appellant also reproduces figures from Robbins to illustrate Robbins' use of multiple receivers however as we stated above, we do not find the arguments persuasive because Appellant's fail to disclose wherein Robbins teaches away from incorporating multiple receivers into a single receiver. *See* Request 4-7. Further as we stated in our Decision, Robbins discloses in column 35 lines 53-55, "[t]he reduction in cost may be reflected in the decrease in the needed auxiliary receivers." Decision 10.

As we stated in our decision, the internal components of the Appellant's receiver has not been disclosed and Appellant also concedes that

there were non-limiting examples of the claimed receiver in the Specification. *See* Decision 8; Request 6-7.

Although giving claims their broadest reasonable interpretation must take into account any definitions given in the Specification, *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997), it is improper to read into the claims limitations from examples given in the Specification. *In re Zletz*, 893 F.2d 319, 321-22 (Fed. Cir. 1989). *See also Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005)(“[A]lthough the specification often describes very specific embodiments of the invention, we have repeatedly warned against confining the claims to those embodiments . . . In particular, we have expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that embodiment”) (citations omitted).

Appellant’s argument that the Board has ignored the correct law is not persuasive because the Appellant’s assertion that Robbins teaches away from the claimed invention is not persuasive for the reasons stated above. *See* Request 7-8. Further, the Appellant’s arguments that the combination of the references does not produce something at least akin to the claimed invention are not persuasive for the reasons stated above. *See* Decision 8-9.

Appellant argues that the patentability of claim 77 was not addressed by the Board however; Appellant relied upon Robbins’ initial failure to disclose a single receiver as the basis for the patentability of claim 77 over the obviousness rejection of record. *See* Appeal Brief 26. As we have stated previous, we did not find the Appellant’s arguments in regard to the claimed single receiver to be persuasive over the art of record for the reasons we have stated above.

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Appellant's request for rehearing has been granted to the extent that our decision has been reconsidered, but such request is denied with respect to making any modifications to the decision.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

REHEARING

DENIED

Cwwjr

ke

Christina M. Halliday
900 Spring City Road
Phoenixville PA 19460